

LFV/EJS:lls  
97-1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 00-6022-CIV-LENARD  
Magistrate Judge Turnoff

HENRY NARANJO and  
MARLENE RAMIREZ,

Plaintiffs,

v.

STEPHEN BYRON SMITH, and  
PALMER JOHNSON, INC.,

Defendants.

NIGHT BOX  
FILED  
AUG 2 2001  
CLARENCE MADDOX  
CLERK, USDC / SDFL / MIA

**MOTION TO STRIKE PLAINTIFF'S MEMORANDUM OF LAW  
IN RESPONSE TO PALMER JOHNSON'S MOTION TO STRIKE  
PLAINTIFF'S DEMAND FOR A JURY TRIAL OR IN THE ALTERNATIVE  
MOTION FOR ENLARGEMENT OF TIME TO REPLY TO PLAINTIFF'S RESPONSE**

COMES NOW, the Defendant PALMER JOHNSON, INC., and files this its Motion to Strike Plaintiff's Memorandum of Law in Response to Palmer Johnson's Motion to Strike Plaintiff's Demand for a Jury Trial or in the Alternative Motion for Enlargement of Time to Reply to Plaintiff's Response, and as grounds therefor states as follows:

1. That on or about June 20, 2001, the Defendant Palmer Johnson filed a Motion to Strike Plaintiff's Demand for Jury Trial and Motion to Amend Amended Complaint.
2. That pursuant to Local Rule 7.1C, the Plaintiff had 10 days, excluding mailing days, within which to respond to the Motion.
3. That the response should have been due on or about July 5, 2001.

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4. However, the Memorandum was not served until July 25, 2001, which is outside the time parameters set forth by Local Rule 7.1.C.

**MEMORANDUM OF LAW**

Pursuant to Local Rule 7.1.C(a) a Memorandum which was served on June 20, 2001 would have been permitted a response by July 5, 2001. See, S.D. Fla. L.R. 7.1.C. 1(a) (2000). Therefore the Response Memorandum should be stricken.

**MOTION FOR ENLARGEMENT OF TIME**

5. That the Plaintiff's Memorandum of Law in response to defendant's Motion to Strike Plaintiff's Demand for Jury Trial was dated July 25, 2001, yet was not received in this office until July 30, 2001.

6. That pursuant to the Local Rules, the Defendant would only have until on or about August 2, 2001 to reply to the Memorandum.

7. That because it would be unduly burdensome for the Defendant to respond only having possessed the Memorandum for 3 days, the Defendant moves the Court for an enlargement of time of 10 days, or through August 13, 2001, within which to reply to the Response.

8. That this Motion is made in good faith and for the good causes shown above.

9. That the undersigned has conferred with opposing counsel concerning the aforementioned Motions, who opposes the Motion to Strike and has no objection to the Motion for Enlargement of Time.

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WHEREFORE, the Defendant respectfully requests that this Court enter an order granting the Defendant's Motion to Strike, or, in the alternative, granting a Motion for Extension of Time within which to reply to the Plaintiff's Response.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing motion has been furnished by mail this **2nd** day of August, 2001 to: **Manuel Valdes, Esquire**, Law Offices of Manuel Valdes, Attorneys for Plaintiffs, 910 Madrid Street, Coral Gables, Florida 33134; **F. David Famulari, Esquire**, Co-Counsel for Plaintiffs, Blanck & Perry, P.A., 5730 SW 74th St., Suite 700, Miami, FL 33143; **John D. Kallen, Esquire**, Badiak, Will & Kallen, Attorneys for Stephen Byron Smith, 17071 West Dixie Highway, North Miami Beach, Florida 33160; **David L. Weber, Esquire**, Pinkert Law Firm LLP, 454 Kentucky Street, P.O. Box 89, Sturgeon Bay, WI 54235-0089; **Joseph L. Mannikko, Esquire**, Mannikko & Baris, P.A., Attorneys for Tom Fexas Yacht Design, Inc., 870 SW Martin Downs Blvd., Suite 1, Palm City, Florida 34990.

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By: \_\_\_\_\_

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